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September 1, 2011

Ray LaHood, Secretary
Docket Management Facility (M-30)
U.S. Department of Transportation
West Building Ground Floor, Room W12-140
1200 New Jersey Avenue, SE.
Washington, DC 20590-0001

RE: COMMENTS ON RE-CERTIFICATION FOR THE COOK INLET REGIONAL
CITIZENS ADVISORY COUNCIL (USCG-2011-0586)

Dear Secretary LaHood:

I. Introduction

Cook Inletkeeper (Inletkeeper) is a nonprofit organization formed in 1995 to protect the Cook Inlet watershed and the life it sustains. Alaskans formed Inletkeeper largely in response to concerns the Cook Inlet Regional Citizens Advisory Council (CIRCAC) was already – in the early stages of its existence – failing to fulfill its mandate to “represent the citizens of Cook Inlet in promoting environmentally safe marine transportation and oil facility operations in Cook Inlet.”¹

Since 1996, I have had a front row seat watching CIRCAC attempt to achieve its congressional mandates, and while CIRCAC has certainly attained some important achievements over this time, as a whole, the organization has failed to live up to community expectations and federal mandates. A primary reason is because CIRCAC must negotiate for its funding from the very oil corporations it’s meant to oversee, and there’s a pervasive and deeply ingrained desire within the organization to never bite the hands that feeds it. It’s clear after all these years CIRCAC’s funding mechanism must change if there’s any hope the organization can start to reflect the organization Alaskans hoped to see with the passage of OPA 90.

These comments will not be extensive because Inletkeeper has little faith – despite strong evidence supporting de-certification – that the U.S. Department of Transportation will take such action, because to do so would add an administrative burden that our federal bureaucracy would clearly rather avoid. That said, the information provided herein provides a solid basis for an audit by the USDOT to shine a necessary light on CIRCAC operations to understand why that organization continues to fall short of its stated mandates, and such an audit should occur prior to CIRCAC’s recertification.

¹ For example, local groups in 1995 were forced to sue Unocal, Shell and Marathon for over 4200 violations of the Clean Water Act because CIRCAC refused to pursue inquiries into toxic dumping practices from offshore and onshore oil facilities in Cook Inlet. The oil companies conceded the violations, and settled the case, with proceeds directed to start-up Cook Inletkeeper.

II. Comments

A. CIRCAC does not represent the communities and interests of Cook Inlet

OPA 90 requires CIRCAC to “broadly [represent] the communities and interests in the vicinity of the terminal facilities and Cook Inlet.” While CIRCAC’s membership looks impressive on paper, the fact remains CIRCAC does little to actively engage meaningful participation from interest groups or the general public. For example, CIRCAC’s 2011 application for recertification to the USCG states “the [CIRCAC] website provides the user with all updated information on Cook Inlet RCAC programs as well as archived reports, data, newsletters, annual reports, etc.”² Yet the latest CIRCAC press releases on the website are from 2005, and there is no way for citizens to obtain meeting minutes or meeting agendas without calling the CIRCAC office.³ There are numerous other examples of this lack of transparency, and together, this insular behavior creates an environment where citizens are left in the dark regarding CIRCAC positions, meetings and operations, and they are not encouraged to participate.

Furthermore, CIRCAC efforts to engage the conservation community have been undermined by CIRCAC’s reluctance to respond to specific questions about spill prevention and response incidents. As noted in CIRCAC’s recertification application, I was removed as the Environmental Representative on the CIRCAC Board because, according to CIRCAC, I acted in a “disloyal” and “harmful” way toward the organization.⁴ Yet CIRCAC’s recertification application states that “[d]irectors serve at the pleasure of the organization they represent,”⁵ and state corporate law clearly disallows the removal of a minority Board member simply because the minority Board member expresses a dissenting view.⁶ Again, I will not go into lengthy detail here. But attached please find correspondence I sent to CIRCAC while serving in the Environmental seat, along with other documents, which plainly show CIRCAC’s unwillingness to address important substantive issues that go to the core of its mission. This matter alone stands out as an area ripe for USDOT audit inquiry.

In an effort to smooth over the controversy caused by my eviction from the CIRCAC Board, CIRCAC solicited participation from a local recycling group (Re-Group) to represent the broad array of conservation interests around Cook Inlet. While Re-Group does important work on the re-cycling front, the group has never engaged in oil and gas issues, it’s membership is limited to a small portion of Cook Inlet, and it’s loosely defined structure led to considerable confusion when the Board President nominated himself (unbeknownst to the Re-group Board) for the CIRCAC Environmental seat. This is but one

² CIRCAC Recertification Application 2011, p. 10.

³ The Prince William Sound RCAC routinely provides up to date meeting minutes and agenda so citizens have a better opportunity to participate and understand organizational operations.

⁴ At no time did CIRCAC ever produce any evidence I had acted disloyally or in a manner harmful to the organization, other than to criticize the organization publicly for failing to take appropriate action when Chevron left 6 million gallons of oil as the base of the erupting Mt. Redoubt volcano in 2009. Despite repeated requests to CIRCAC leadership (i.e. Mr. Munger and Ms. Merkes) for a specific basis for my removal, none ever materialized. As a result, my removal was clearly motivated by a desire to quell my rights to free speech, and as a federally-authorized organization, CIRCAC blatantly violated state and federal constitutional protections around free speech with my removal.

⁵ CIRCAC Recertification Application 2011, p. 2.

⁶ In statements made to the media, CIRCAC President Merkes said a board member’s job is “to represent what this board represents.” Anchorage Daily News, June 18, 2010, p. A1 (enclosed). In other words, no one can take a position or express an opinion contrary to that expressed by the industry-dominated Executive Committee. The story goes on to reflect the type of procedural maneuvers and intimidation CIRCAC uses to quell dissenting opinions. For example, the story includes reference to the CIRCAC Executive Director using profanity to castigate me prior to a Board meeting and despite the fact I made reference to this abuse on the record during the Board meeting, all references to the exchange have been scrubbed from CIRCAC minutes.

example where CIRCAC installs a figurehead to ostensibly represent an interest group on the Board, when in reality the practice simply perpetuates CIRCAC's desire to look good on paper, with little or no substantive backing.

In short, CIRCAC maintains a "bunker mentality" where outside perspectives and questions are discouraged and unwelcome, and where a core of the pro-industry leadership at CIRCAC tightly controls operations to insulate the organization and frustrate its pursuit of its congressional mandates. As a result, CIRCAC's public reputation as a reliable counter-balance to industry operations in Cook Inlet will continue to suffer as long as CIRCAC relies on negotiated funding from industry.

B. CIRCAC does not promote environmentally safe marine transportation and oil facility operations

There are countless examples where CIRCAC has failed to promote environmentally safe transportation and oil facility operations in Cook Inlet. For example, in the wake of the grounding of the T/V *Seabulk Pride* in 2006 – which got ripped from its moorage in Nikiski by tides and ice with nearly 1 million gallons of product and fuel aboard - CIRCAC held a forum to discuss the matter then did virtually nothing; a year later, the same vessel at the same dock parted lines and nearly broke free again. Only then did CIRCAC pass a resolution⁷ calling for an assist tug, after which industry made the business decision to secure a long-needed assist tug for the notoriously dangerous docks at Nikiski.

Additionally, as discussed above, CIRCAC's performance during the 2009 Mt. Redoubt eruption was an embarrassment, and its stonewalling and efforts to cover-up its institutional failures have not led to safer operations in Cook Inlet. To the contrary, industry clearly recognizes it can get away with anything it wants as long as it holds the purse strings to CIRCAC's operating budget.

A good example of the coziness between CIRCAC and industry, and its effect on CIRCAC's unwillingness to engage industry on important pollution issues, can be found in a January 2010 email from Executive Committee member John Williams (enclosed). In response to concerns raised about possible criminal air pollution violations at a Chevron facility, Mr. Williams wrote to the Council:

I would ask that we reserve judgment on this issue until all the evidence is clearly reviewed. History indicates that Chevron was the recipient of many of these issues upon acquisition of these assets. Until contracts are reviewed and until responsibilities are defined, one should not presume that the answer to the questions are clear. It is interesting to note that we have gone to great lengths to insure that the oil industry is placed under the most stringent review and that the regulations now in place have served to greatly reduce any consideration of not only continued operation in the inlet but also put a chill on any further expansion or development of the industry within the inlet. In my opinion it is within the realm of possibility that the entire industry may look upon further investment in the area as being outside the boundaries of good investment possibilities. That type of decision could lead to curtailment of future investment and thus future growth considerations for the area.....Let me remind all of us of the message being sent forth and being presented at the most recent EDD conference in Kenai, much of which was repeated at the Alliance Gathering in Anchorage. This is not a message of great hope within the industry. We all should be cognizant of the fact that every dime not spent in support of the government services now in

⁷ Due to the ever-present hostility to the Environmental Seat on CIRCAC, I was forced to ghost-write the resolution which called for a tug assist at the Nikiski docks, and the Municipality of Anchorage representative introduced it. After Tesoro made the business decision to secure the tug assist, CIRCAC Executive Director Munger routinely praised Tesoro in public for going "above and beyond compliance," despite the fact CIRCAC's own navigational safety report from 1993 called for tugs at the Nikiski Docks. It's important to recognize in this dynamic that Tesoro is CIRCAC's largest industry funder.

place by this major industry will be paid by others....unless....we are willing to curtail such services as public safety, health and social services, education, waste management, hospital services, and economic development, all of which are supported by public collected, allocated, and spent tax dollars. I, as a member of the CIRCAC Board will not move to take any action at this time nor will I support any action to involve the Board in any review of the issue. Let the issue be played out under the venue available and the present venue now being exercised. I do not see any necessary involvement on our part at this time....John Williams, Board member.

Finally, with new exploration occurring in Cook Inlet, CIRCAC has once again shown a reluctance to engage industry in a meaningful way to ensure proper safeguards. For example, Escopeta recently brought a jack-up rig (Spartan 151) into Cook Inlet, and despite expressing "concern" in a press release, CIRCAC has done little or nothing to address or otherwise elevate various potential legal violations, including noted problems with storing the rig in a state critical habitat area, the diversion of a spill response vessel to carry industry supplies, failing to secure proper authorizations under the Marine Mammal Protection Act and NEPA, and violating a state plan of operations.

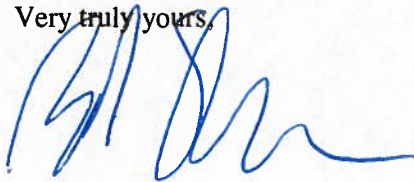
These are simply a few examples and they reflect a much larger trend where CIRCAC remains unwilling or unable to scrutinize in a legitimate way the industry that supplies its operating budget. CIRCAC's general modus operandi is not to prevent accidents or incidents, but rather, to simply describe and often to legitimize them after the fact, and to show how CIRCAC worked with industry to address them.⁸ This "closing the barn door after the horses have escaped" behavior does little or nothing to engender a safer operating environment in Cook Inlet. An independent audit by the USDOT would help reveal these and other concerns and should be a condition precedent to CIRCAC's recertification.

III. Conclusion

Enclosed please find a letter from conservation groups who represent over 10,000 Alaskans in the Cook Inlet region. While I cannot now speak for all these groups, it's safe to say CIRCAC will continue to lack meaningful participation from the conservation community until it embraces substantial reforms. Based on past experience, CIRCAC itself is incapable of embracing these needed reforms. As a result, we respectfully request a formal audit of CIRCAC by the USDOT to ascertain whether CIRCAC has acted lawfully to achieve the mandates laid out in OPA 90.

Thank you for the opportunity to comment, and please do not hesitate to contact me if you have any questions.

Very truly yours,



Bob Shavelson
Executive Director

Enc. a/s

⁸ In fairness, CIRCAC's PROPs staff does a commendable job with spill plan reviews, which can play a proactive role in improved industry performance if CIRCAC backs its comments with actions from the Board.



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PROTECTING ALASKA'S COOK INLET WATERSHED AND THE LIFE IT SUSTAINS

HAND DELIVERED

June 18, 2010

Grace Merkes, President
Board of Directors
Cook Inlet Regional Citizens Advisory Council
910 Highland Avenue
Kenai, AK 99611

RE: REQUEST TO REJECT AND REVISE CIRCAC REPORT ENTITLED "EVALUATION OF THE 2009 DRIFT RIVER OIL TERMINAL COORDINATION & RESPONSE WITH A REVIEW OF THE COOK INLET'S RCAC'S ROLE IN OIL SPILL RESPONSE."

Dear Ms. Merkes & Members of the Board:

I. Introduction

As a long-time Boardmember of the Cook Inlet Regional Citizen Advisory Council (CIRCAC) and someone intimately familiar with the 2009 Chevron/Drift River Oil Terminal incident, I respectfully request the Board of Directors refuse to accept the above-referenced Report, and instead revise the report so it more accurately portrays the events that transpired and CIRCAC's response to them. To do anything less will simply diminish CIRCAC's reputation even further and help propagate the persistent spill prevention and response problems that continue to plague Cook Inlet.

As the BP Gulf Disaster continues to unfold, and as plans to drill offshore in Cook Inlet and elsewhere in Alaska move forward, it is imperative that facts, transparency and science drive our spill prevention and response policies and activities. It is my sincere hope CIRCAC will receive these comments in the constructive manner in which they were drafted.

II. Identified Concerns

A. *Industry & Government Revise Draft Report; Boardmembers Cannot*

As a threshold issue, I was dismayed to learn that Chevron/Cook Inlet Pipeline and various government agencies were provided an opportunity to review and make revisions to the draft Report, while most CIRCAC Boardmembers were not. While the four members of the CIRCAC Executive Committee apparently had the opportunity to review the draft Report, the majority of Boardmembers – including myself – were denied this opportunity. To compound matters, my request yesterday to review comments submitted on the draft Report by Chevron/CIPL was rejected. If CIRCAC truly values transparency and openness, it will allow all Boardmembers and members of relevant committees the opportunity to comment on this Report before it is finalized, and to see comments submitted by industry and government.

B. *Refusal to Answer Important Questions Previously Posed*

Importantly, the Report fails to address significant questions raised previously, including specific questions posed in my September 3, 2009, letter to the CIRCAC President and the Board of Directors.¹ I was told on several occasions by CIRCAC leadership, including during the December 4, 2009, and March 26, 2010, CIRCAC Board meetings, that responses to my questions would be addressed in the Report. The fact the Report does not answer the vast majority of questions posed on Sept. 3, 2009, indicates either incompetence in report writing or a deliberate desire to avoid uncomfortable answers. In either case, this concern alone justifies significant revisions to the current Report.

C. *Failure to Address Significant Issues*

While the Report is telling in what it chooses to convey about the 2009 Chevron/Drift River Incident, it's perhaps more revealing in what it fails to discuss. For example:

1. Inability to Respond to a Spill: On March 22, Chevron evacuated the DROT in the wake of a massive eruption; starting from at least that time, Chevron was incapable of meeting state and federal requirements to respond to an oil spill. Weeks later, on April 17, Chevron finally submitted the required "notice of non-readiness" to ADEC, stating:

Per Alaska Statute 18 AAC 75.475 (b), CIPL hereby notifies ADEC that due to the evacuation of CIPL employees from the Drift River Terminal, CIPL response capability has been diminished. CIPL cannot, at this time, determine the duration of this event or propose a schedule for return to operational status....Per Alaska Statue 18 AAC 75.475 (c), CIPL hereby notifies ADEC that the response equipment identified as onsite at Drift River Terminal in CIPL's C-Plan is no longer readily accessible.²

Yet the Report not only fails to mention Chevron/C IPL's inability to meet its contingency plan requirements, it also fails to note Chevron's egregiously late notice of non-readiness.

2. Ballast Water Discrepancies: At the height of the incident, Chevron refused to remove oil from the tanks at the base of the exploding Mt. Redoubt volcano, arguing the oil was needed to stop the tanks from floating away in the event of flooding.³ Conservation and fishing groups argued the oil should be removed because it posed a serious threat to fisheries downstream; that water could ballast the tanks; and that Chevron simply wanted to keep oil in the tanks to make facility re-start easier. The Unified Command even went so far as to issue a Fact Sheet explaining why the oil could not be removed and replaced with water. Yet after an independent engineer reported how water could easily ballast the tanks – and after a major eruption made facility re-start unlikely – the Unified Command issued a "revised" fact sheet on ballast water and Chevron/C IPL did in fact draw down the oil in the tanks and ballast them with water. This incident highlighted a fundamental theme in the 2009 Chevron/Drift River Incident response – i.e., that facility re-start and continued operations were a higher priority to

¹ See Letter from Bob Shavelson, CIRCAC Boardmember, to Molly McCammon, President, CIRCAC (Sept. 3, 2009) (attached).

² Letter to Ms. Betty Schorr, ADEC Division of Spill Prevention and Response, from Barry Staskywicz, CIPL/Chevron (Apr. 17, 2009).

³ For an alternative timeline of events surrounding the 2009 Chevron/Drift River Oil Terminal Incident, see Cook Inletkeeper, Drift River Oil Terminal Timeline, Issues & Questions (Aug. 2009) (attached & available at: www.inletkeeper.org/watershedwatch/redoubt2009/InletkeeperDriftRiverUpdate082409.pdf)

Chevron/CIPL and the Unified Command than fisheries protection. Yet the Report wholly fails to mention this critical episode in the response.

3. Funding Negotiations During Incident: It is well established that CIRCAC – unlike its sister organization in Prince William Sound – is required to negotiate for its operating budget with the very entities it's meant to oversee. Yet the Report is silent on the fact CIRCAC was actively negotiating for its funding with Chevron during the 2009 Chevron/Drift River Incident, at the very time CIRCAC was “embedded” with Chevron in the Incident Command Center. While there can be no way to demonstrate malfeasance on CIRCAC's part as a result of this dynamic, the Report should at a minimum reference it to ensure full transparency is achieved.

4. Failure to Discuss Known Mitigation Strategies That Would Have Protected Worker Safety & Fisheries: The Report goes into detail to discuss the 1989/90 Mt. Redoubt eruption and the subsequent safety improvements made to the Drift River Terminal in response. Yet it fails to mention the most obvious ways Chevron could have protected its workers from the known and serious threats of a volcanic eruption, and how it could have avoided the economic dislocations of shutting down Drift River terminal: Chevron could have built a new pipeline across Cook Inlet, or it could have “tight lined” the facility. A new pipeline would have been the most obvious route to protect worker and environmental health and safety. But after the 1989/90 incident, had Drift River operators simply installed piping around the storage tanks (a process called “tight lining”) – so oil could continue to flow in the event the tanks could not be used – there would have been little need to keep workers in harm's way⁴ and to threaten Cook Inlet fisheries with millions of gallons of oil. While these safety measure would have cost Chevron money, it would have largely prevented the risks posed in the 2009 Chevron/Drift River Incident. Importantly, Chevron chose to tight line Drift River AFTER the 2009 Incident. But the Report makes no mention of these vital, foregone safety measures.

5. Anonymous Citations, Unseen Memos & Conclusory Statements: The Report's citations reference conversations with various industry and agency personnel, but it fails to name them.⁵ As a result, it is impossible to verify any statements and accountability virtually disappears.⁶ Similarly, there are repeated references to memos to CIRCAC from ADEC, the U.S. Coast Guard and Chevron/CIPL, despite the fact these memos were never circulated to the CIRCAC Board or committees and do not appear in the Report's appendices.⁷ Significant references to these unseen memos – and the frequency with which they are cited to bolster important provisions in the Report – provide the entities at the heart of the 2009 Chevron/Drift River Incident response (i.e. industry and government) with undue influence over the final Report's contents.⁸ Finally, there are numerous unsupported, conclusory statements that reflect opinion, not facts, and appear designed to paint the 2009 Chevron/Drift River Incident response in a positive light.⁹ Together, these failings in the Report make it impossible to know the sources and bases for vital information, and cast a cloud over the Report's objectivity and legitimacy.

⁴ The Report notes “...the safety of personnel at DROT was the primary concern,” (Report, p. 22). Yet because Chevron chose not to circumvent the storage tanks at DROT – either with a new pipeline or through tight-lining – it knew it was putting workers into harm's way each time it sent them back into the facility between eruptions.

⁵ See, e.g. Personal Communication with CIPL/Chevron, February 25, 2010 (Report, Footnote 36).

⁶ A revised Report should include names, positions and affiliations of any person cited as a reference.

⁷ See, e.g., CIPL Memo to CIRCAC, April 7, 2010; USCG Memo to CIRCAC, April 7, 2010, ADEC Memo to CIRCAC, April 6, 2010 (found in footnotes throughout the Report).

⁸ A revised Report should include the CIPL/Chevron, USCG and ADEC memos in its appendices.

⁹ Some unsupported, conclusory statements include: “Based on interviews conducted with [unnamed] industry and government representatives, the integration approach [where CIRCAC is embedded in the Unified Command] has added value and built respect and trust between parties.” (Report, p. 16); [shortly after the volcano awoke, CIRCAC]...gathered and disseminated as much publicly available information as possible....” (Report, p. 24). “[CIRCAC] worked cooperatively, to the limit of its legislated authority, to be as useful as possible and bring the

6. Deficient Spill Response Capacity: Chevron refused to publicly divulge the volume of oil stored at Drift River prior to Mt. Redoubt's March 22 eruption, claiming such data was "sensitive security information" under the Homeland Security Act. Yet when the volcano erupted March 22 and Chevron evacuated the facility, it somehow found its way around the Homeland Security Act to announce that over 6 million gallons of oil remained stranded above Cook Inlet fisheries. But Chevron's spill contingency plan¹⁰ only addressed a spill of roughly 390,000 gallons to open water at the facility, and the spill response contractor (CISPRI) admitted publicly it had barge capacity for only about 3 million gallons of oil. At no point did the Unified Command identify the specific spill response assets available to address a catastrophic release from DROT. Yet the Report makes no mention of this monumental lapse.

7. CIRCAC's Role in Emergency Response: The Report discusses CIRCAC's role "embedded" in the Unified Command structure; yet it fails to mention that CIRCAC generated and disseminated no original analysis of unfolding events, and instead simply played the conduit for industry press releases and other information flowing from the Unified Command. CIRCAC never asked one probing question of industry or questioned any agency action publicly. In fact, at the second public meeting "hosted and facilitated" by CIRCAC in Kenai, the Report fails to note that Chevron's public relations firm in Anchorage organized the event and took public comments from it.

III. Conclusion

Due to the abbreviated timetable to review the Report, this letter provides only some of the significant lapses witnessed during the 2009 Chevron/Drift River Incident, and it references only a few of the many shortcomings identified in the Report; the attached Sept. 3, 2009, letter and DROT Timeline provide additional important information.

The Report, does, however, get one thing right: "The Cook Inlet RCAC is responsible for making sure complacency does not set in with industry and government manifesting inactivity that becomes a detriment and threat to the system and environment."

If this Report is allowed to stand, we have no one to blame but ourselves when the next disaster or near-miss befalls Cook Inlet.

Very truly yours,



Bob Shavelson, Boardmember
Cook Inlet Regional Advisory Council

emergency to a successful conclusion." (Report, p.26); "It is clear the Executive Director and staff understood their responsibilities and met or exceeded them..." (Report, p. 29). A revised Report should provide evidence for these unsupported assertions; otherwise they are opinion and have no place in the Report.

¹⁰ Despite repeated requests during the many weeks of the incident, the Unified Command refused to post relevant sections of Chevron's spill contingency plan on the Internet, though the Report fails to mention this oversight.



COOK INLETKEEPER®

PROTECTING ALASKA'S COOK INLET WATERSHED AND THE LIFE IT SUSTAINS

September 3, 2009

Molly McCammon, President
Cook Inlet Regional Citizens Advisory Council
910 Highland Avenue
Kenai, AK 99611

Dear Ms. McCammon:

I. Introduction

As a long-time member of the CIRCAC Board, I continue to believe CIRCAC can and must play a central role promoting safe oil industry operations in Cook Inlet. However, recent events surrounding the Drift River Oil Terminal (DROT) Incident 2009 have raised significant concerns, and I believe it is in the best interest of CIRCAC to examine these issues in an open, deliberate and transparent dialogue. Accordingly, I ask that this letter and the enclosed attachments be made part of the meeting minutes for the September 4, 2009, CIRCAC Board meeting in Kodiak.

II. Drift River Oil Terminal 2009

A. CIRCAC Public Forum

I listened to the public forum hosted by CIRCAC on August 24, 2009, in Kenai to discuss the restart of operations at DROT. Several concerns arose. First, not one speaker from the Unified Command – and no one from CIRCAC – raised a single concern about the numerous breakdowns in spill prevention and response that unfolded at DROT both before and after Mt. Redoubt erupted on March 22, 2009. Instead, the conclusions presented focused on the fact no oil had spilled and no one was injured, and while these outcomes were certainly fortunate and welcomed, they embrace the notion of “no harm, no foul.” Reasonable minds can obviously disagree on these conclusions, but from what I heard, the public received a wholly one-sided perspective on the DROT 2009 incident.

Second, when a citizen attempted to make comments critical of the DROT 2009 response, the emcee cut the speaker off before he was finished, as in-person attendees clapped in approval. After understanding the dynamic in the room in Kenai – and how the meeting was being run - I chose not to speak, because it was apparent any probing questions or concerns would not be heard.

Finally, and perhaps most disturbingly, I was unaware before the meeting that Chevron/CIPL had hired a public relations firm (MSI Alaska) to help organize and orchestrate the event. As a CIRCAC Board member, I believe I should have been aware that an industry PR firm was not only contracted to coordinate a CIRCAC public forum, but also to accept public comments flowing from it. It is exactly this type of overlap with the industry CIRCAC is charged with overseeing that raises questions and perceptions about CIRCAC's proper role in Cook Inlet oil operations.

B. DROT Incident Concerns

From the time Mt. Redoubt awoke in late 2008, I raised numerous concerns about CIRCAC's involvement in DROT spill prevention and response processes.¹ When Mt. Redoubt erupted on March 22, 2009, it took the Unified Command a week simply to activate, despite the fact Mt. Redoubt posed significant risks dating back to at least the 1989-90 eruption, and for the 2009 incident, at least four months. Yet communications from CIRCAC included no original analysis or commentary on unfolding events, and instead simply reiterated positions taken by Chevron/CIPL's public relations people and the state and federal agencies engaged in the response. I will not repeat the numerous legal and other infractions I witnessed during the 2009 DROT incident, but as someone who has watched oil operations in Alaska for the past 15 years, I can plainly state the DROT incident 2009 posed some of the most significant break-downs in spill prevention and response since the *Exxon Valdez*. Attached please find a timeline, with commentary, on the events surrounding the 2009 DROT incident.

A primary and recurring question arises from the DROT incident, and it's a central question requiring resolution from the CIRCAC Board: is CIRCAC's role in incident response and other situations simply to reiterate and pass on information supplied by industry and government, or should CIRCAC provide analysis and insight to help the Board and their constituents understand the underlying legal, technical and spill prevention and response concerns raised? From my perspective – and looking back to CIRCAC's mission, strategic plan and OPA 90 – CIRCAC should play a more active role independently analyzing information, updating the public and generally informing its constituents beyond the information put out by industry and government. Otherwise, CIRCAC's role is simply that as a conduit for industry and government information and its outreach and education roles become superfluous.

During this incident, I asked numerous questions that – despite promises to the contrary – have gone unanswered.² Accordingly, I will follow-up here with more direct questions regarding CIRCAC's role in the DROT 2009 response, with a request for answers in writing, including:

- Did CIRCAC comment on the February 2009 changes to the DROT contingency plan? If so, did it call for an increased RPS to address a total release from the facility due to volcanic activity? If not, why? Did CIRCAC advocate for public notice and comment on the c-plan changes on behalf of its constituents, and if not, why? Did CIRCAC reveal to the Board that ADEC regulations at 18 AAC 75.432(b) require the DROT to maintain a

¹ See Email from Molly McCammon, CIRCAC President, to CIRCAC Board & Staff (Jan. 31, 2009) (Attached).

² See, e.g., email from Molly McCammon, CIRCAC President, to CIRCAC Board & Staff (Apr. 2, 2009) (Attached).

Response Planning Standard to address a release from all tanks and pipelines at the facility, and if not, why?

- Did CIRCAC inform the Board that on April 17, 2009, Chevron/CIPL submitted to ADEC a "notice of non-readiness," conceding it could not address a spill from the DROT, and if so, when? If not, why? Did CIRCAC ask Chevron or ADEC why such a notice had not been filed on March 22, when evacuation of the facility and the loss of various spill monitoring tools made proper response impossible? If not, why?
- Did CIRCAC provide any original content and/or analysis on its web site so CIRCAC's constituents could access information other than that put out by industry and government, and if not, why? If so, please describe this original content.
- Did CIRCAC at any time publicly question a decision or statement by the Unified Command, ADEC, Chevron/CIPL or EPA? If so, when?
- Did CIRCAC object to initial agency response plans which did not list fisheries and water quality protection as priorities, and instead placed facility re-start at a higher level of importance, and if not, why?
- Did CIRCAC challenge the original assertion made by Chevron/CIPL and the Unified command that water could not be used to ballast the tanks at DROT, and if not, why?
- Did CIRCAC challenge the inclusion of dispersants in the Unified Command's spill response arsenal? If not, does CIRCAC support the use of dispersants for on-shore and near-shore use?
- Did CIRCAC ever communicate to the Board and/or its constituents the specific spill response assets available to respond to a total release from DROT, and if not, why? Can CIRCAC provide a specific list of assets available in Cook Inlet to address a total release from DROT as of March 22, 2009, and if not, why?
- In August 2009, Chevron/CIPL announced it had re-configured the DROT to largely bypass the DROT storage tanks in order to move upstream oil to tankers at the Christy Lee loading platform. Although this action increased tanker calls and transits, it also reduced oil spill risks to fisheries posed by volcanic. Did CIRCAC advocate for a similar reconfiguration prior to March 22 to protect industry jobs and fisheries, and if not, why?

B. Board Meeting Protocols

In response to rising concerns over the DROT situation, CIRCAC held a Special Board Meeting on February 6, 2009, where members of Chevron/CIPL, ADEC and USCG provided information to the CIRCAC Board regarding DROT spill prevention and response plans, strategies and capacities. Through a question and answer session, Chevron/CIPL reiterated it would not reveal the volume of oil remaining in the tanks at DROT, and would not share with the CIRCAC Board the DROT's "Volcano Readiness Plan" due to Homeland Security Concerns. Without such basic information, the CIRCAC Board could not know whether the volume of oil at the DROT exceeded the facility's Response Planning Standard (RPS). As a result, the CIRCAC Board had no independent way to verify that a catastrophic release from the facility could be adequately addressed. When Chevron/CIPL finally announced the volume of oil stored at the facility when Mt. Redoubt erupted, the potential for a catastrophic release did in fact exceed the facility's RPS.

Unfortunately, CIRCAC created no written record of this Special Board Meeting.³ Yet CIRCAC's by-laws explicitly require minutes to be taken for all proceedings. Section 8.5 of the CIRCAC By-Laws states:

Minutes of Meetings; Books & Records. The corporation shall keep correct and complete books and records of account, minutes of the proceedings of its Council and committees having authority of the Council, and such other records as may be necessary or advisable (emphasis added).

In speaking to the drafters of that provision dating back to CIRCAC's formation (including Vern McCorkle and Larry Smith), and recognizing the plain language of the above-referenced provision, it is clear the by-laws mandate written records of all meetings to create and preserve a historical record of CIRCAC proceedings. Otherwise memories fade, industry hires public relations firms to re-cast events and the public loses valuable insights that can help prevent problems in the future. In short, we cannot learn from the mistakes of the past unless we understand what transpired in the past. From my perspective, this is precisely why CIRCAC exists, and CIRCAC's by-laws, strategic plan and OPA 90 reinforce this perspective. Yet when I asked for the minutes from the February 6 Special Meeting, I was told none would be produced.

C. Conflict of Interest

As most Boardmembers know, CIRCAC is different from the PWS RCAC in that CIRCAC is required to negotiate on a regular basis for a majority of its annual budget with the very oil corporations CIRCAC is charged with overseeing. This dynamic sets up the potential for serious and direct conflicts of interest. Let me be clear: I have no direct evidence of any such conflicts, and I am not impugning the integrity of anyone involved with CIRCAC. However, it is clear that the appearance of a conflict of interest alone can cast a pall over the organization's operations, and undercut its credibility in the public eye. Furthermore, in light of the serious issues raised above, it behooves the Board to ensure absolutely that no conflict could ever exist. That's why I have long-believed CIRCAC should receive a set amount of funds from Cook Inlet oil producers as long as oil move through Cook Inlet; this construct would align more closely to the PWSRCAC model, and would give CIRCAC the autonomy it needs to operate without concerns over actual or perceived conflict of interest. Furthermore, it is incumbent on the CIRCAC Board to understand what contributions specific funding companies make to CIRCAC, what agreements – verbal, written or otherwise – exist, and how, when and where these agreements are negotiated. Past attempts to obtain this information have yielded few details on these issues.

III. Conclusion

CIRCAC can and must play a central role providing objective information to a variety of stakeholders regarding oil industry operations in Cook Inlet. I have remained involved with CIRCAC over the years because I believe firmly in CIRCAC's mission, and I believe it is in the

³ At that meeting, I also asked Captain of the Port Hamilton what federal law provisions allow Chevron to conceal such information when similar information is revealed on a daily basis at the Valdez Marine Terminal. Mr. Hamilton promised a response in writing, yet none materialized.

best interests of the organization to address the concerns raised during the DROT 2009 incident to ensure any problems noted can be corrected, and to ensure CIRCAC plays a viable role in public education and outreach related to oil production in Cook Inlet.

Thank you for your attention to these matters and I would greatly appreciate a response in writing to the questions and concerns presented above.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Bob Shavelson', with a stylized, cursive script.

Bob Shavelson, Boardmember
Environmental Group Representative
Cook Inlet Regional Citizens Advisory Council

Inlet council hears report on volcano-threatened oil tanks

ADVISORY COUNCIL: Member says board is beholden to Chevron.

By [RICHARD MAUER](#)
rmauer@adn.com

Published: June 18th, 2010 11:11 PM

Last Modified: June 19th, 2010 01:44 AM

A new report on the potential for a disastrous oil spill during the Mount Redoubt eruption last year ignited a brief but loud argument Friday among directors of the Cook Inlet Regional Citizens Advisory Council over whether they are properly exercising their oversight role.

"This is a breeding ground of complacency," board member Bob Shavelson said of the council. Shavelson, who represents the environmental group Cook Inletkeeper, said the report failed to address significant issues he had raised, including his concern that the council was too beholden to Chevron, the company that owns the 1960s-era crude-oil tanks built in the shadow of Redoubt.

Board President Grace Merkes, appointed to the board by the Kenai Peninsula Borough Assembly, didn't directly address Shavelson's concerns but called for a vote to accept the report even as he was speaking, their voices rising to a confusing din. Later, she insisted in an interview, she listens to Shavelson's opinions, but at the same time said he could be removed from the oversight board for criticizing it.

"I'm not taking away his American rights," Merkes said. "He can go talk to the public, as long as he's just talking about his personal opinion, but not his opinion about the board."

A board member's job is "to represent what this board represents," Merkes said.

The council was one of two citizen oversight panels mandated by Congress in the aftermath of the Exxon Valdez oil spill in 1989. Its more famous cousin, the Prince William Sound Regional Citizens' Advisory Council, has been studying oil spills, spill prevention, cleanup and community response since its inception. It's now advising Gulf of Mexico communities on how to cope with the BP blowout.

The 57-page report released Friday was written by consultant Leslie Pearson. It contained a long section on the history of the Drift River Oil Terminal and its tank farm, now owned and operated by a Chevron subsidiary, and the events that occurred during the 2009 eruption. The terminal and

its storage tanks are part of the transportation system for oil pumped from offshore platforms on the west side of Cook Inlet.

While the site was convenient for a tanker dock, it happened to be 22 miles downriver from a very active volcano, Mount Redoubt. Mudflows from the volcano damaged the facility in a 1989-90 eruption, though no oil was spilled, and threatened it again in March 2009, again without loss of oil, though officials, fishermen and others were on edge for weeks.

For days during the early stages of the eruption, Chevron and the Coast Guard refused to say how much oil was in the two active Drift River tanks, citing restrictions in post 9/11 anti-terrorism laws. They finally acknowledged the tanks contained 6 million gallons when the company and state and federal governments established a unified command to manage the crisis.

In her presentation, Pearson said she was unable to find a "trigger" in the law that allowed release of the information -- it just happened.

"It probably was very confusing to the public," Pearson said. "It was confusing to me to try and make some sense of it." Anti-terrorism laws hid other information that the public had come to expect, such as the hazards of nearby industrial sites that had to be reported under federal community right-to-know laws, she noted.

Knowing the volume in the tanks would indicate the scale of a worst-case scenario if the tanks were breached. As it was, Shavelson said, spill response teams only have the capacity to pick up and store half that much oil.

Pearson proposed some changes in the future, including earlier establishment of a unified command -- before a disaster appears imminent. Until that troika is created, the oil company is mainly responsible for response.

But Shavelson said the report ignored many of the questions he had asked it to answer. Among them: what effect the council's funding might have had on its oversight role.

Both the Prince William Sound and Cook Inlet councils are funded by the oil industry. While the Prince William Sound council routinely gets its annual \$2 million-plus from the operators of the trans-Alaska pipeline, Shavelson said the Cook Inlet group must negotiate its funding regularly from the companies it oversees.

"Yet the report is silent on the fact the CIRCAC was actively negotiating for its funding with Chevron during the 2009 Chevron/Drift River Incident," Shavelson said in a letter he distributed at the meeting. "While there can be no way to demonstrate malfeasance on CIRCAC's part as a result of this dynamic, the report should at a minimum reference it to ensure full transparency is achieved."

Shavelson's unhappiness with the council reached its peak during the vote on whether to accept the report. He asked the council's executive director, Mike Munger, whether he had challenged Chevron on a key issue that arose during the crisis. Chevron said it didn't want to empty the

tanks of oil out of fear they'd float away in a flood. Why couldn't they just replace the oil with a heavier substance, water? Shavelson asked.

The question was cut off by Merkes. "I'm not going to accept that, no. We have a motion on the floor."

"This is exactly how CIRCAC cuts off debate and disallows honest questions," Shavelson retorted.

"The motion is on the floor," Merkes said. "I'm going to call a roll-call vote."

"The executive director refuses to answer direct questions," Shavelson said.

"Roll-call vote."

"I'm sorry, this morning at the beginning of this meeting, the executive director called me 'chicken----' and he said 'FU' to me," Shavelson said. "That is the hostile environment that exists in this organization."

"Let's go off the record for a minute, please," Merkes said.

"It was said to me in an open room," Shavelson continued. "You're cutting off debate on an important issue when there's unresolved questions."

"I have that opportunity," Merkes responded. "I am the president."

The report was accepted on a 9-1 vote, with only Shavelson opposed. During the break, Munger denied using profanities but acknowledged having an "altercation" with Shavelson that he amended to a "heated discussion."

Read more: <http://www.adn.com/2010/06/18/1330127/inlet-council-hears-report-on.html#ixzz1WjMsgml3>

HOMER TRIBUNE

September 23, 2010

CIRCAC's time has passed

By Frank Mullen

I'm an Alaska-born, homestead kid and commercial fisherman. I was on the Kenai Borough Assembly when the Exxon spill occurred in 1989, and worked with the Alaska delegation as language for OPA '90 was being drafted. I had high hopes for the concept of citizen oversight that was written into federal law. Regional Citizens Advisory Councils seemed like a step in the right direction in the effort to prevent future events like Exxon.

I have a unique perspective on the Cook Inlet Regional Citizens Advisory Council. In 1991, Don Gilman, then mayor of the Kenai Peninsula Borough, appointed me to serve as CIRCAC's first interim executive director. Those were heady days. I had grown up in the oil patch of Kenai and Soldotna, and I had seen first hand the indiscriminate dumping and spills from the oil industry. I watched the Steelhead platform burn after a blow-out in 1987. That same year, the Glacier Bay oil tanker hit a rock and I watched tens of thousands of gallons of oil shut down our salmon fisheries. Two years later, Joe Hazlewood made the Exxon Valdez a household word, and Congress responded with the Oil Pollution Act of 1990. That act created Regional Citizens Advisory Councils in Cook Inlet and Prince William Sound.

I was thrilled that Mayor Gilman had sought my services in the birthing process of CIRCAC. But, there was a problem. Industry lobbyists had inserted language into OPA '90, requiring CIRCAC to negotiate for its annual budget with the very industry it was meant to oversee. I realized this was a sticky arrangement, but the reality did not hit me until the first time I went with other CIRCAC representatives to negotiate our first funding agreement with the oil industry. We had no negotiating power; we essentially had to come on bended knee and ask the oil industry to give us funding to watch over their activities.

The industry owned us.

So, its no surprise that over the years, CIRCAC has been more of a lapdog for industry than a watchdog. But the recent dismissal of Bob Shavelson from the CIRCAC board of directors is a new low point in CIRCAC's history. Shavelson provided an important counter-balance to the pro-industry majority on CIRCAC, and from his position as Cook Inletkeeper, he was – unlike many other board members – well-versed in the complexities of oil and gas issues in Cook Inlet. And while CIRCAC has bent over backwards to say Shavelson was not dismissed for exercising his right to free speech, I believe that's exactly what happened. He spoke up when CIRCAC remained silent. He asked questions, and when CIRCAC refused to respond, he kept asking them. I strongly suspect that CIRCAC's actions may have been illegal, and the removal of a dissenting board member for expressing his views is contrary to the law.

CIRCAC's mission is to represent the citizens of Cook Inlet in promoting environmentally safe

marine transportation and oil facility operations. CIRCAC has a special obligation to the citizens of Cook Inlet because, unlike other nonprofit groups, it was created by federal statute. Yet over the years, CIRCAC has been dominated by oil industry participants at the expense of true citizen participation. As a lifelong commercial fisherman in Cook Inlet, I have seen very little evidence of CIRCAC's interest in involvement of Cook Inlet fishermen.

There seems to be little sunlight on the CIRCAC process. Go to the organization's website if you want to see its stunning lack of transparency: the public cannot see when or where CIRCAC meets, cannot see agendas or meeting minutes, cannot find contact information for boardmembers, etc.

I used to believe CIRCAC could flourish with a different funding formula. But it's clear the organization is now too immersed in its own bathwater to be salvaged. The recent "firing" of Shavelson is the empirical evidence that CIRCAC is badly off track from its mission. From my perspective as a lifelong resident of the Kenai Peninsula, a commercial fisherman and a businessman, I believe CIRCAC should be disbanded, and the Prince William Sound RCAC – which operates more objectively under a different funding formula – should expand to cover Cook Inlet issues. This new Gulf of Alaska RCAC would avoid duplication and provide important cost savings as oil production wanes. It would provide the citizens of the entire region with more comprehensive and sensible representation in oil and gas discussions.

Finally, as the debate over offshore drilling in the Arctic continues in the wake of the BP disaster in the Gulf of Mexico, it's imperative that the funding formula for CIRCAC never be replicated for other RCAC's elsewhere.



Story last updated at 6:15 PM on Wednesday, September 8, 2010

CIRCAC should boot its policies, not Shavelson

The news that the Cook Inlet Regional Citizens Advisory Council prefers protocol to dissension is disheartening at best. The council, whose mission is "to represent the citizens of Cook Inlet in promoting environmentally safe marine transportation and oil facility operations in Cook Inlet," last week voted to remove Homer's Bob Shavelson.

Shavelson, the executive director of Cook Inletkeeper, represents environmental interests on the council. The council said it was giving Shavelson the boot "for conduct that violated Cook Inlet RCAC policies," not for his views.

But under CIRCAC rules, if members disagree with the majority, abiding by policies might be hard to do in good conscience. Here's an excerpt from CIRCAC's Code of Conduct: "Notwithstanding any other provision of this policy, Council Directors, Alternate Directors and officers shall refrain from making disparaging comments about the Cook Inlet RCAC organization, or about positions taken by the Council, in public, or in a manner which may lead to public dissemination of such comments."

In June, Shavelson called the council to task for failing to address what he described as significant issues related to safeguards at the Drift River Oil Terminal in the wake of Mount Redoubt's eruption in 2009.

CIRCAC has a difficult job. Its role is as a watchdog council, but its funding comes from those it is supposed to be watching. There's an inherent conflict, and it's appropriate to remind everyone of that conflict as Shavelson did in a June letter, asking that a CIRCAC report on the 2009 Drift River Oil Terminal incident be revised. Among many other flaws in the report, Shavelson said the council was "silent on the fact CIRCAC was actively negotiating for its funding with Chevron" during the incident. Those negotiations are part of how CIRCAC operates and there's nothing wrong with that, but there's also nothing wrong with the report referencing those negotiations "to ensure full transparency is achieved," as Shavelson put it.

Shavelson has been on the council for more than six years. He's served as vice president of the body and one year was elected the organization's "volunteer of the year." And, yes, he's outspoken about what he believes to be the right way and the wrong way to do business. It's a pretty safe bet that's he's a thorn in the side of at least some CIRCAC members who view things differently.

While the council is fully within its rights to remove Shavelson from his seat, it's not likely it did itself any favors by doing so. Instead of a watchdog group, it now appears to be deserving of Shavelson's criticism that the council has been complacent and is nothing more than a government and industry mouthpiece.

CIRCAC is supposed to be representative of citizens of Cook Inlet; many of those citizens appreciate Shavelson's outspoken ways. It's hard to think of an instance where vigorous debate — and disagreement — are harmful to the interests of the public. If CIRCAC is unwilling to hear Shavelson's concerns, what recourse does he have but to take them to the public, which he represents?

Instead of removing Shavelson, CIRCAC and all Cook Inlet citizens would be better served by the council reviewing its policies. There should be an opportunity for those who disagree with the majority to have their dissenting voice included in CIRCAC's official reports and other public statements.

From: John J. Williams [kenai_mayor@hotmail.com]

Sent: Friday, January 22, 2010 6:00 PM

To: bob@inletkeeper.org; mccammon@aos.org

Cc: 4rdog24@gmail.com; gfandrei@ciaanet.org; merkes2@yahoo.com; pelagic@ptialaska.net; mayor@cityofseldovia.com; elizabeth.chilton@noaa.gov; filcut@ak.net; kodiakwaves@gmail.com; robert2nd@acsalaska.net; tommytookalook@hotmail.com; wheezerp@gci.net; craigval@gci.net; deric.marcorelle@alaska.gov; marilyn.sigman@gmail.com; blanche.paul@gmail.com; stevehackett@xyz.net; coho97@gmail.com; wkoning@kib.co.kodiak.ak.us; barry_eldridge@yahoo.com; betbil@acsalaska.net; brookman@alaska.net; eagleriverted@gci.net; lois@aktransportation.org

Subject: SPAM-LOW: RE: ADN: EPA believes Chevron was aware of pollution violation

Comments to all regarding;.....I would ask that we reserve judgment on this issue until all the evidence is clearly reviewed. History indicates that Chevron was the recipient of many of these issues upon acquisition of these assets. Until contracts are reviewed and until responsibilities are defined, one should not presume that the answer to the questions are clear. It is interesting to note that we have gone to great lengths to insure that the oil industry is placed under the most stringent review and that the regulations now in place have served to greatly reduce any consideration of not only continued operation in the inlet but also put a chill on any further expansion or development of the industry within the inlet. In my opinion it is within the realm of possibility that the entire industry may look upon further investment in the area as being outside the boundaries of good investment possibilities. That type of decision could lead to curtailment of future investment and thus future growth considerations for the area.....Let me remind all of us of the message being sent forth and being presented at the most recent EDD conference in Kenai, much of which was repeated at the Alliance Gathering in Anchorage. This is not a message of great hope within the industry. We all should be cognizant of the fact that every dime not spent in support of the government services now in place by this major industry will be paid by others....unless....we are willing to curtail such services as public safety, health and social services, education, waste management, hospital services, and economic development, all of which are supported by public collected, allocated, and spent tax dollars. I, as a member of the CIRCAC Board will not move to take any action at this time nor will I support any action to involve the Board in any review of the issue. Let the issue be played out under the venue available and the present venue now being exercised. I do not see any necessary involvement on our part at this time.....John Williams, Board member.

From: bob@inletkeeper.org

To: bob@inletkeeper.org; mccammon@aos.org

CC: 4rdog24@gmail.com; gfandrei@ciaanet.org; merkes2@yahoo.com; pelagic@ptialaska.net;

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lois@aktransportation.org

Subject: ADN: EPA believes Chevron was aware of pollution violation

Date: Fri, 22 Jan 2010 16:42:55 -0900

This is an increasingly serious story and it clearly falls under CIRCAC's mission...

EPA believes Chevron was aware of pollution violation

COOK INLET: Company says it's working with investigators.

By ELIZABETH BLUEMINK

ebluemink@adn.com

Published: January 22nd, 2010 02:17 AM

Last Modified: January 22nd, 2010 07:22 AM

Search warrants served on two Cook Inlet oil facilities last week were based on federal environmental regulators' suspicions that Chevron Corp. had knowingly violated its air pollution permits and made false statements, court filings show.

An Anchorage federal court magistrate on Jan. 7 authorized the U.S. Environmental Protection Agency's Criminal Investigation Division to seize computers, files, photos and other records at Chevron's Trading Bay Production Facility and Granite Point Tank Farm.

In an affidavit, EPA Special Agent Matthew Goers told the judge that his agency had obtained sufficient information to suspect that Chevron and possibly its subsidiaries, managers and employees had committed felonies, including Clean Air Act violations and false statements to the federal government. The searches occurred Jan. 12 and 13, with federal investigators flying to the two remote, on-shore Chevron facilities on the west side of Cook Inlet in an Alaska Army National Guard Black Hawk helicopter, according to state and federal officials.

Chevron on Thursday said it is cooperating with the investigation but declined to discuss the EPA's court filings.

"In May of 2008, we provided the government with voluntary disclosure relating to these issues and have been cooperating with the government's information requests since that time. We take such non-compliance allegations seriously," the company said in a written statement, provided by Chevron spokesman Mickey Driver.

At Trading Bay and Granite Point, Chevron subsidiary Union Oil Co. of California processes and stores crude oil from several Cook Inlet production platforms. The company then ships the oil to the Tesoro refinery in Nikiski.

SHUT-OFF EQUIPMENT

The alleged violations began in 2006, when Chevron shut down a vapor control unit for two of its oil storage tanks at Trading Bay.

In 2007 or earlier, the company also shut down the vapor control units for oil storage tanks at Granite Point, according to Goers' affidavit.

The vapor control units were designed to capture vapor from the oil before it escaped the tanks and reuse the vapor as fuel. Shutting the units down allowed a significant amount of air pollution to escape from the tanks, Goers wrote.

Chevron had described the tanks to regulators in 2006 and 2007 as "insignificant sources" of pollution that emitted no more than 2 tons per year of volatile organic compounds and 2 tons per year of hazardous air pollutants. Both groups of chemicals are regulated as toxic pollutants that can cause health problems.

Instead, the Trading Bay tanks released more than 100 tons per year of volatile organics into the air from 2006 to 2008, according to Goers, citing Chevron estimates. The Granite Point tanks released more than 15 tons per year of crude oil vapors in the same time period, he said in the affidavit.

In 2008, Chevron sent a letter to state regulators saying it had potentially been violating its Clean Air Act permit at Trading Bay since shutting down its vapor control unit two years earlier. It requested that regulators invoke a federal policy that waives or reduces fines for companies that self-report their own violations.

In 2009, a state inspector visited Granite Point and pointed to its tanks, asking how its vapors were recovered. A Chevron operator told her that its vapor control unit "was not operating at the time because a necessary compressor was not operating." Regulators later learned that the unit had shut down in 2007, Goers wrote in his affidavit.

On the day of the state inspection, Chevron sent a letter to state regulators, asking to amend its previous filings about air pollution at Granite Point. The company said that it hadn't adequately described the air emissions at the tank farm when it applied for a permit in 2006, according to the affidavit.

FALSE STATEMENTS?

The purpose for the search warrants was to seize documents and other evidence that might show whether the company knowingly withheld information and gave "material false statements" to environmental regulators, the affidavit said.

From 2006 to 2008, Chevron submitted documents to environmental regulators saying that its Cook Inlet facilities complied with their air permits. In 2007, company officials told regulators that they were still using the vapor control system at Trading Bay, and that the tanks were not venting to the atmosphere, Goers wrote.

Goers also interviewed current and former Chevron employees who described problems with the vapor control system at Trading Bay before its shutdown in 2006, he wrote.

"Problems attributed to the vapor recovery system by current and former Chevron employees include the following: fugitive vapors escaping from the roof of the tanks, improperly sized compressors, damaged and/or inoperable circuit boards, insufficient parts, repair requests which were unsupported by management, and various other problems with the system which tend to indicate that the vapor recovery system was not functioning properly, may have been out-of-service for extended periods of time, and then eventually led the vapor recovery system to not function," Goers wrote.

Chevron officials told state regulators that it deactivated the vapor control unit for its Granite Point tanks because the company wasn't producing enough natural gas to operate the compressor it used to guide the vapors into the unit, according to the affidavit.

U.S. Magistrate Deborah Smith signed the warrants to search and seize records at the two facilities, which are not accessible by road. The Alaska Army National Guard confirmed Thursday that it flew the agents to western Cook Inlet to conduct the searches.

Find Elizabeth Bluemink online at adn.com/contact/ebluemink or call 257-4317.

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**Alaska Center for the Environment • Alaska Community Action on Toxics
Alaska Marine Conservation Council • Cook Inletkeeper
Kachemak Bay Conservation Society • Oil Spill Region
Environmental Coalition**

September 24, 2010

Graces Merkes, President
Cook Inlet Regional Citizens Advisory Council
P.O. Box 2029
Kenai, AK 99611

Dear Ms. Merkes:

Our conservation organizations represent over ten thousand Alaskans who care deeply about clean water, healthy fisheries, sustainable jobs and oil industry accountability in Cook Inlet. We are writing now to express our serious concerns over the dismissal of Bob Shavelson from the CIRCAC Board of Directors.

Congress clearly envisioned diverse constituencies and active debate on oil issues when it created the RCAC's under OPA 90. Mr. Shavelson represented conservation interests on the CIRCAC Board for more than six (6) years, and he's highly knowledgeable on the intricacies of oil and gas operations and regulation. Mr. Shavelson rose to Vice President of CIRCAC, and was recognized by his peers as Volunteer of the Year in 2008. In short, Mr. Shavelson played an exemplary role helping CIRCAC fulfill its mission "to represent the citizens of Cook Inlet in promoting environmentally safe marine transportation and oil facility operations in Cook Inlet."

Yet on September 1, 2010, CIRCAC held a closed door meeting, and with only a half hour notice to Mr. Shavelson of the allegations against him, proceeded to evict him from his longstanding Board seat. While CIRCAC insists Mr. Shavelson was not dismissed for exercising his right to free speech, all evidence points to the contrary.

As a result, the conservation community has strong concerns a replacement for Mr. Shavelson may encounter the same bias and hostility directed at Mr. Shavelson unless CIRCAC embraces significant reforms. Therefore, the undersigned groups will hereby boycott the conservation seat on CIRCAC until:

- 1) CIRCAC responds in writing to the questions posed by Mr. Shavelson in his September 3, 2009, letter to then-CIRCAC President Molly McCammon regarding the Drift River Oil Terminal incident;
- 2) CIRCAC removes the provision in its by-laws (and amends its policies accordingly) which allow the Board of Directors to remove a dissenting minority member for

exercising his right to free speech and for exercising his fiduciary duty of reasonable inquiry in pursuit of the organization's mission; and

3) CIRCAC publishes all meeting agendas, meeting minutes, staff reports, staff and Board contact information and related information on its web site.

In the event CIRCAC is unwilling or unable to meet these reasonable conditions, members of the conversation community will investigate efforts to disband CIRCAC and create a more cost-effective and responsive Gulf of Alaska RCAC that truly represents the citizens of Cook Inlet.

Thank you for your attention to this matter. Please direct all future correspondence to me and I will ensure the undersigned receive all CIRCAC communications.

Sincerely,



Toby Smith, Executive Director
Alaska Center for the Environment
807 G Street, Suite 100
Anchorage, AK 99501

On behalf of the following people & groups:

Kelly Harrell, Executive Director
Alaska Marine Conservation Council

Pamela K. Miller, Executive Director
Alaska Community Action on Toxics

Rob Ernst, President
Cook Inletkeeper

Roberta Highland, President
Kachemak Bay Conservation Society

Nancy Wainright
Oil Spill Region Environmental Coalition

Cc: Senator Mark Begich
Senator Lisa Murkowski
Secretary Napolitano, DHS